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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 3297 / 2003

PETITIONER: - Dhani Ram Bhagat aged about 50 years s/o Thur Sai r/o Kherkatta Tehsil- Pathalgaon, District-Jashpur (C.G.)

VERSUS

RESPONDENTS: -

1. State of Chhattisgarh Through secretary Department of revenue D.K.S. Bhawan Raipur. (C.G.)
2. The Collector Jashpur, Distt.– Jashpur (C.G.)
3. The Tehsildar Pathalgaon, Distt-Jashpur (C.G.)
4. Patwari Halka no. -4 Tehsil, Pathalgaon, Distt.- Jashpur (C.G.)
5. Lallu Uraon s/o Mussadi aged about 55years r/o Kherkatta Tehsil- Pathalgaon, District-Jashpur (C.G.)
6. Dhan singh aged about 40 years S/o Lallu Ram r/o Kherkatta Tehsil- Pathalgaon District- Jashpur (C.G.)
7. Ram Sai aged about 55 years Mahinath r/o Kherkatta Tehsil- Pathalgaon District-Jashpur (C.G.)
8. Somu aged about 23 years s/o Madhur Sai r/o Kherkatta Tehsil- Pathalgaon District- Jashpur (C.G.)

P. R. No. 1936/03
Presented by Shri Satyendra Sahu
dated 16.06.03

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शपथ आयुक्त
एस.के शुक्ला
बिलासपुर (छ.ग.)
18/6/03
बिलासपुर तहसील कोर्ट

WRIT PRTITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUENCE A WRIT IN THE NATURE OF MANDAMUS,

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(36)

आदेश पत्रक

W.P. No. 3297/2003

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	~~5.12.2003~~	

Petitioner by Shri Satyendra Sahu, Advocate.

Respondents No. 1, 2 and 3 by Miss Sharmila Singhai, Deputy Govt. Advocate.

By this writ petition under Article 226/227 of the Constitution of India the petitioner has challenged the order dated 11.1.1999 passed by the Tehsildar, Pathalgaon in Mutation Case No. 966 regarding Khasra No. 362/1 measuring 0.680 hectare in which the name of the petitioner has been deleted and the land has been transferred in the name of the Respondents No. 5 and 7.

It has been mentioned in the petition that the respondents No. 5 to 8 are relatives of the petitioner. The father, grand mother and uncle of the petitioner had filed a civil suit against the father of the Respondents No. 5 and 7 in the year 1971 before the Civil Judge Class-II, Dharamjaigarh for declaration of their title on the land having Khasra No. 68/3, 99/2 and 362 of village-Kherkatta. Learned Civil Judge passed the judgment on 31.3.1972 in Civil Suit No. 9-A/1971 and decreed the suit in favour of the father of the petitioner and other co-sharer. Against the judgment passed by the trial Court Civil Appeal No. 39-A/1972 was filed which was dismissed vide judgment dt. 24th August, 1973 (Annexure P/2). Thereafter name of father of the petitioner was mutated in the revenue records. But on the strength of the impugned order dated 11.9.1999 passed by the Tehsildar in Mutation Case No. 966 the name of the petitioner has been deleted from the revenue record.

I have heard learned counsel for the parties.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 3297/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned Deputy Govt. Advocate at the outset submits that the order passed by the Tehsildar is appelable before the S.D.O. Revenue under Section 44 of the Chhattisgarh Land Revenue Code, 1959.

Learned counsel for the petitioner submits that the Tehsildar is not supplying certified copy of the impugned order therefore the petitioner is not able to file appeal before the S.D.O. Learned counsel for the petitioner drew attention of the Court towards the I. A. No. 9976/2003 application for exemption from filing the certified copy of the order dt. 11.1.1999, and towards the documents Annexure P/5 and P/6 filed along with this application.

Annexure P/5 is the application dated 1.8.2003 filed by the petitioner in the Court of Tehsildar, Patthalgaon, District- Jashpur in which there is a remark dt. 8.8.2003 "ग्राम खरखट्टा का कोई प्रकरण व्यायालय में चलित नहीं है । न था ।". This remark reveals that neither any case relating to the Village- Kharkhatta is pending nor it was ever tried.

Learned counsel for the petitioner submits that the Tehsildar may be directed to supply certified copy of the order dt. 11.1.1999 to enable the petitioner to file an appeal before the S.D.O. Revenue for which learned Deputy Govt. Advocate has no objection.

Having heard learned counsel for the parties and having regard to the facts and circumstances of the case the petitioner is allowed to approach the Tehsildar afresh by filing an application demanding certified copy of the order dt. 11.1.1999 and the Tehsildar, Patthalgaon is directed to supply certified copy of the order dt. 11.1.1999 passed by

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	him in Mutation Case No. 966 regarding Khasra No. 362/1, within a period of 15 days from the date of filing of the application by the petitioner. Thereafter the petitioner would be at liberty to file an appeal before the S.D.O. Revenue. With the above directions this petition is finally disposed. Parties are entitled for certified copy of this order. **Sd/-** **L.C.BHADOO** **Judge**	